

CONCERNED
WOMEN *for* AMERICA
LEGISLATIVE ACTION COMMITTEE

July 15, 2019

Dear Chairman Bass, Ranking Member Ratcliffe and Members of the House Judiciary Committee,

The federal government's heavy-handed influence on the everyday choices made by Americans is alarming, and Congress should seek to inhibit federal encroachment on state issues. However, the federal government maintains a legitimate interest in enforcing federal laws relating to dangerous drugs, including marijuana. As the House Judiciary Committee considers marijuana legislation, Concerned Women for America strongly urges you to resist the aggressive push for liberalization of federal marijuana laws.

The Strengthening the Tenth Amendment Through Entrusting States Act, or the STATES Act (H.R. 2093), seeks to amend the Controlled Substances Act of 1970¹ to exempt the production or sale of marijuana from the Controlled Substances Act in accordance with state or tribal law. This will exempt marijuana from federal enforcement and federal oversight in states where marijuana has been legalized. **This equates to the federal legalization of marijuana.**

During the 2019 legislative session, the marijuana industry suffered defeat after defeat on the state level; in Vermont, New Hampshire, Connecticut, New Mexico, New Jersey, New York, and in many other states, legislatures declined to enact pro-recreational marijuana measures. Although the legalization conversation is ongoing around the nation, the marijuana industry is relentlessly pushing their pro-legalization agenda on the federal level for their own financial gain. The STATES Act is a crucial element in this legalization strategy.

The STATES Act would wrongfully give states the ultimate governing authority, and liability, over marijuana policy, but drug enforcement is not a state issue. Congress passed the Controlled Substances Act of 1970 (CSA) because the black market does not honor state lines. Its rationale for passing the CSA in 1970, the effect of drugs on interstate commerce and concern of the effects of psychotropic substances, still stand today. By arguing that states should be the ultimate governing authority over marijuana policy, proponents ignore legalization's effects on neighboring states and the nation as a whole. **In order to support this bill from a states' rights perspective, supporters must either conclude that the entire Controlled Substances Act is unconstitutional, thus states are solely responsible for handling all activity relating to all drugs, including heroin, fentanyl, and other illicit drugs or that marijuana is completely harmless with no potential for addiction or abuse and should be legal in all cases.**

The federal government has a legitimate interest in overseeing interstate commerce, as expressed by the Founders in Article I, Section 8 of the U.S. Constitution. This federal interest has been reinforced by the Supreme Court of the United States many times. In *Gonzales v. Raich*, a 2005 case regarding federal enforcement of laws concerning medicinal marijuana plants in someone's yard, the Supreme Court affirmed 6 to 3 that federal law supersedes state law in enforcing drug statutes – even in states where marijuana is legal. Marijuana use in intrastate commerce was determined to be part of the national marijuana market, and thus under “essential” federal regulation, because local use has an effect on the national market.

What happens in legalized states doesn't stay there, and legal recreational use states provide exceptional cover for criminal organizations who want to exploit addiction for profit. In 2018, NBC News published an extensive piece on foreign cartels in Colorado taking advantage of recreational legalization.² According to federal and local officials, "Chinese, Cuban and Mexican drug rings have purchased or rented hundreds of homes [to cultivate and grow marijuana] and use human trafficking to bring inexperienced growers to the U.S. to tend them ..."³ These cartels target legalized states to shield black market operations in a legal environment, grow more marijuana than the entire state could consume, ship marijuana out of the state to states where recreational use is illegal, and then turn a massive profit. **The federal government should not make it easier for foreign drug cartels to flourish in the United States.**

Since Colorado has legalized recreational use, marijuana has poured into nearby states⁴, so much so, that neighboring states Nebraska and Oklahoma have sued Colorado for exacerbating their in-state marijuana trafficking operations.⁵ One does not need to travel to Colorado for Colorado marijuana, it exists in virtually every state.⁶ The Colorado Attorney General's office said that legalization "has inadvertently helped fuel the business of Mexican drug cartels ... cartels are now trading drugs like heroin for marijuana."⁷ The Drug Enforcement Administration's (DEA) 2018 National Drug Threat Assessment repeatedly states that "traffickers are transporting their marijuana across states lines, into states where it is not legal to grow it, and/or the laws are different."⁸ In 2018, the DEA found that the majority of marijuana in the U.S. is illicitly produced on United States soil by state-licensed medical growers and drug trafficking organizations.⁹

Unsurprisingly, the overgrowth of the black market in legalized states is not isolated to Colorado. A report from the Oregon State Police found that the black market in Oregon has skyrocketed since the state legalized marijuana, including significant trafficking operations to states that have not legalized marijuana as well as foreign countries.¹⁰ In 2019, California Governor Gavin Newsom asked for help from the federal government to eradicate the state's massive black market.¹¹ The California State Legislature considered a tax break during its 2018 session for legal operations so that they can compete with black market prices.¹² **Legalization in a high-tax, highly regulated environment like that of California, Oregon, and Colorado does not eliminate the black market, rather, according to the DEA, it enables it.**¹³

All of this translates to cost, and marijuana legalization does not serve as an income-generator for states. In Colorado, one comprehensive study found that for every \$1 in revenue marijuana brings in, the state spends \$4.50 countering the effects.¹⁴ This number includes health care costs, traffic fatalities, DUIs, high school dropouts, and poison control calls.¹⁵

The enactment of the STATES Act would hurt states economically, while simultaneously legitimizing the marijuana industry financially, granting marijuana businesses, including drug trafficking organizations, access to the federal banking system. **This would be the first time the banking industry was opened to schedule I drug operations and would set an alarming and dangerous precedent of granting banking access to criminal activity.** Keeping marijuana operations separate from the banking system has helped limit the rate of growth of the marijuana industry.¹⁶ Furthermore, there is no assurance that drug trafficking organizations would be unable to access the banking system for marijuana-related businesses. Drug trafficking organizations are willing to exploit what is legal to accomplish what is illegal. Opening up the banking system to marijuana operations will no doubt abet foreign drug trafficking operations in the United States and abroad. Canada, which legalized recreational marijuana nationwide in late 2018, has already seen offshore investments infiltrate their marijuana operations, some with ties to organized crime.¹⁷

Marijuana is a multibillion-dollar a year industry. Allowing the banking industry access to this underground industry would lead to unprecedented Wall Street investment.¹⁸ Former big tobacco executives are already aggressively investing in marijuana¹⁹ and former big tobacco companies have already invested in Canadian legal marijuana markets.²⁰ Allowing the tobacco industry, with its proven record of complete disregard for public health and safety, access to Wall Street marijuana investment on a massive scale would all but assure that marijuana is the next big tobacco. State legal marijuana markets have already seen immense investment from tobacco titans like The Altria Group and Phillip Morris, the maker of Marlboro.²¹

The STATES Act not only legalizes marijuana use but legitimizes its use even though marijuana legalization has had a documented negative impact on mental health, violence, and adolescent behavior and development. Study after study continues to show conclusively that marijuana does have a high potential for abuse, which reinforces the need for its schedule 1 categorization.²² In 2016, President Obama's Department of Health and Human Services along with the DEA, reiterated this and refused to reschedule marijuana from a schedule I drug because of its high potential for abuse and lack of current acceptable medical use.²³ Furthermore, because of obligations outlined in international drug treaties, the United States cannot reschedule marijuana to a schedule less restrictive than schedule II.²⁴

Marijuana is not FDA approved to treat any disorder, disease, or condition, and medical legalization always serves as a foothold for recreational legalization. In fact, the FDA has fined the marijuana industry for making counterfeit, off the rail, medical claims, mostly claims relating to marijuana's treatment or even "curing" of terminal cancer.²⁵ Legitimate scientific research does not support the industry's claims. If marijuana or its derivatives provide any hope for patients, the FDA should regulate marijuana like any other drug instead of a recreational activity.

The costs of marijuana use on the health care system cannot be easily dismissed and purporting marijuana use as a legitimate health care remedy is irresponsible and reckless. Marijuana has a high potential for abuse and daily or near daily marijuana users are 25-50% more likely to develop cannabis use disorder.²⁶ In Colorado, it cost \$31,448,905.88 to treat cannabis use disorder in 2017 alone.²⁷ Research continues to show that "the higher the use of marijuana, the greater the risk" for long-term health issues and adverse reactions.²⁸ Long-term marijuana use is linked to health and behavior problems later in life²⁹, including heart attacks³⁰, violence³¹, and schizophrenia.³² Furthermore, marijuana doesn't treat mental illnesses such as anxiety or depression. At best, it serves as a coping mechanism to emotionally numb the pain, rather than addressing the root cause of it, at worst, it exacerbates existing issues.³³

Although the STATES Act sounds like an appealing compromise, especially for states' rights advocates and proponents of small government, it is logically inconsistent and dishonest. **The STATES Act would hurt law enforcement efforts to end drug trafficking in the U.S., irreparably compromise the integrity of the U.S. banking system, and damage the physical and economic health of the American public.** The marijuana industry has invested significant time and resources on specific messaging strategies aimed to garner as much support for incrementalism as possible. Both the states' rights approach and the medical push bring hesitant parties into the fold and are crucial steps to the overall goal of full legalization with as little industry oversight as possible.

The STATES Act does not decriminalize marijuana or address any of the legitimate criminal justice concerns that legalization creates because decriminalization is not the industry objective,

full legalization is the objective. The STATES Act would exacerbate current state marijuana legalization issues while simultaneously ignoring the scientific and economic data that shows legalization is harmful. Pushing legislation like the STATES Act further advances the reckless legalization trend. **The STATES Act is not about states' rights, it is a blatant attempt to deceive the public to legalize marijuana on the federal level in the name of state autonomy.** The marijuana industry has spent millions lobbying and drafting this legislation for their own personal gain, all at the expense of public health, safety, justice, and common sense.³⁴ This bill plunges the U.S. into a real-time human experiment on marijuana use and should be opposed.

Sincerely,

Penny Young Nance
CEO and President
Concerned Women for America
Legislative Action Committee

¹ 21 U.S.C. ch. 13 § 801 et seq.

² Romero, D., Gutierrez, G., Blankstein, A., & Powell, R. (2018, May 29). Black-market marijuana is big business, even in states where pot's legal. Retrieved February 1, 2019, from <https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666>

³ Romero, D., Gutierrez, G., Blankstein, A., & Powell, R. (2018, May 29). Black-market marijuana is big business, even in states where pot's legal. Retrieved February 1, 2019, from <https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666>

⁴ Hughes, T. (2016, May 17). When smuggling Colo. pot, not even the sky's the limit. Retrieved February 1, 2019, from <https://www.usatoday.com/story/news/2016/05/13/when-smuggling-colo-pot-not-even-skys-limit/83623226/>

⁵ *Nebraska, et al. v. Colorado*, No. 144, Orig., <https://caselaw.findlaw.com/us-supreme-court/144-orig.html>

⁶ Hughes, T. (2016, May 17). When smuggling Colo. pot, not even the sky's the limit. Retrieved February 1, 2019, from <https://www.usatoday.com/story/news/2016/05/13/when-smuggling-colo-pot-not-even-skys-limit/83623226/>

⁷ Mamdooh, S. (2016, April 08). Cartels cashing in on Colorado's pot industry. Retrieved February 1, 2019, from <http://www.thedenverchannel.com/news/local-news/marijuana/mexican-drug-cartels-are-taking-full-advantage-of-colorados-marijuana-laws>

⁸ United States of America, Department of Justice, Drug Enforcement Administration. (2018). *2018 National Drug Threat Assessment*(pp. 77-88).

⁹ United States of America, Department of Justice, Drug Enforcement Administration. (2018). *2018 National Drug Threat Assessment*(pp. 77-88).

¹⁰ Oregon State Police, Drug Enforcement Section. (2017). *A baseline evaluation of cannabis enforcement priorities in Oregon*. Oregon State Library.

¹¹ Daniels, J. (2019, April 03). California wages war against illegal weed farms; Gov. Newsom wants Trump to pay some costs. Retrieved February 1, 2019, from <https://www.cnbc.com/2019/04/03/california-wages-war-against-illegal-marijuana-farms-retailers.html>

¹² C.A. Legis. Assemb. AB-3157. Reg. Sess. 2017-2018 (2018).

¹³ United States of America, Department of Justice, Drug Enforcement Administration. (2018). *2018 National Drug Threat Assessment*(pp. 77-88).

¹⁴ *Economic and Social Costs of Legalized Marijuana*[Study]. (2018, November 15). In *Centennial Institute*. Retrieved February 1, 2019, from <http://www.ccu.edu/centennial/policy-briefs/marijuana-costs/>

¹⁵ *Economic and Social Costs of Legalized Marijuana*[Study]. (2018, November 15). In *Centennial Institute*. Retrieved February 1, 2019, from <http://www.ccu.edu/centennial/policy-briefs/marijuana-costs/>

¹⁶ Smart Approaches to Marijuana. (2019, March 28). *House Financial Services Committee Approves Marijuana Banking Bill*[Press release]. Retrieved May 29, 2019, from <https://learnaboutsam.org/house-financial-services-committee-approves-marijuana-banking-bill/>

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- ¹⁷ Smart Approaches to Marijuana. (2019, March 28). *House Financial Services Committee Approves Marijuana Banking Bill*[Press release]. Retrieved May 29, 2019, from <https://learnaboutsam.org/house-financial-services-committee-approves-marijuana-banking-bill/>
- ¹⁸ Smart Approaches to Marijuana. (2018, June 7). *Statement from SAM President Kevin Sabet Regarding Senator Cory Gardner's Legislation Shielding Addiction-For-Profit Industry From Federal Law*[Press release]. Retrieved May 1, 2019, from <https://learnaboutsam.org/statement-sam-president-kevin-sabet-regarding-senator-cory-gardners-legislation-shielding-addiction-profit-industry-federal-law/>
- ¹⁹ Marijuana Business Daily. (2017, June 21). MPP chief ready to barter for marijuana campaign donations. Retrieved May 29, 2019, from <https://mjbizdaily.com/mpp-chief-ready-barter-marijuana-campaign-donations/>
- ²⁰ Hirsch, L. (2018, December 07). Altria to invest \$1.8 billion in cannabis company Cronos Group, exits some e-cig brands. Retrieved June 8, 2019, from <https://www.cnbc.com/2018/12/07/altria-to-invest-1point8-billion-in-cannabis-company-cronos-group.html>
- ²¹ Smart Approaches to Marijuana. (2019, February 8). *Senator Ron Wyden Introduces Bill to Legalize Marijuana; Big Tobacco Rejoices*[Press release]. Retrieved from <https://learnaboutsam.org/senator-ron-wyden-introduces-bill-to-legalize-marijuana-big-tobacco-rejoices/>
- ²² Drug Enforcement Administration, Department of Justice; Denial of Petition to Initiate Proceedings to Reschedule Marijuana, 81 Fed. Reg. 53767 (Aug. 12, 2016) (codified at 21 C.F.R. Pt. II).
- ²³ Drug Enforcement Administration, Department of Justice; Denial of Petition to Initiate Proceedings to Reschedule Marijuana, 81 Fed. Reg. 53767 (Aug. 12, 2016) (codified at 21 C.F.R. Pt. II).
- ²⁴ Drug Enforcement Administration, Department of Justice; Denial of Petition to Initiate Proceedings to Reschedule Marijuana, 81 Fed. Reg. 53767 (Aug. 12, 2016) (codified at 21 C.F.R. Pt. II).
- ²⁵ Smart Approaches to Marijuana. (2017, November 1). *SAM Applauds FDA Action on Medical Pot Companies Making Dishonest Medical Claims*[Press release]. Retrieved May 29, 2019, from <https://learnaboutsam.org/sam-applauds-fda-action-medical-pot-companies-making-dishonest-medical-claims/>
- ²⁶ *Economic and Social Costs of Legalized Marijuana*[Study]. (2018, November 15). In *Centennial Institute*. Retrieved February 1, 2019, from <http://www.ccu.edu/centennial/policy-briefs/marijuana-costs/>
- ²⁷ *Economic and Social Costs of Legalized Marijuana*[Study]. (2018, November 15). In *Centennial Institute*. Retrieved February 1, 2019, from <http://www.ccu.edu/centennial/policy-briefs/marijuana-costs/>
- ²⁸ National Academies of Sciences, Engineering, and Medicine. 2017. *The health effects of cannabis and cannabinoids: Current state of evidence and recommendations for research*. Washington, DC: The National Academies Press.
- ²⁹ Sarlin, E., M.Ed., M.A. (2018, February 08). Long-Term Marijuana Use Is Associated With Health Problems Later in Life. Retrieved February 1, 2019, from <https://www.drugabuse.gov/news-events/nida-notes/2018/02/long-term-marijuana-use-associated-health-problems-later-in-life>
- ³⁰ Singh, A., Saluja, S., Kumar, A., Agrawal, S., Thind, M., Nanda, S., & Shirani, J. (2017). Cardiovascular Complications of Marijuana and Related Substances: A Review. *Cardiology and Therapy*, 7(1), 45-59. doi:10.1007/s40119-017-0102-x
- ³¹ Berenson, Alex. (2019). *Tell Your Children: The Truth about Marijuana, Mental Illness, and Violence* (pp. 166). New York, New York: Free Press.
- ³² Berenson, Alex. (2019). *Tell Your Children: The Truth about Marijuana, Mental Illness, and Violence* (pp. 168). New York, New York: Free Press.
- ³³ Berenson, Alex. (2019). *Tell Your Children: The Truth about Marijuana, Mental Illness, and Violence* (pp. 168). New York, New York: Free Press.
- ³⁴ Smart Approaches to Marijuana. (2019, February 8). *Senator Ron Wyden Introduces Bill to Legalize Marijuana; Big Tobacco Rejoices*[Press release]. Retrieved from <https://learnaboutsam.org/senator-ron-wyden-introduces-bill-to-legalize-marijuana-big-tobacco-rejoices/>